



SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 877

NORMAN J. SANFORD,

vs.

Petitioner,

TOM SMITH, SUPERINTENDENT, WASHINGTON STATE
PENITENTIARY

**BRIEF IN SUPPORT OF PETITION FOR WRIT OF
CERTIORARI**

The information upon which the judgment of conviction of burglary rests is wholly defective; the judgment does not satisfy the statute of the State. Sec. 404 of the Statutes of Washington defines a judgment. The judgment fails to locate the county in which it is charged the crime was committed; this is fatal. The information does not deraign what is meant by the Standard Oil Company of California. This oil company is not a person. What is it? Is it something that can own property? If it is a corporation, foreign or domestic, such allegations should appear before evidence could properly be admitted. A court can not take judicial notice a town is in any particular county. A court takes judicial notice of the sub-divisions of a State, as the same are established by one branch of the State government;

cities and towns are not. It is contended the information does not charge a crime.

The Supreme Court of Missouri has had this question before that court on numerous occasions, and it has been the uniform holding of that court that such information is fatally defective.

State v. James, 92 Southwestern, 679;
State v. Horned, 76 Southwestern, 953;
State v. Clark, 122 Southwestern, 665;
State v. Simpson, 295 Southwestern, 739;
State v. Schultz, 295 Southwestern, 535.

The judgment of sentence does not pretend to adjudicate a locality, a county, or the ownership of any property, or other essentials of a charging information.

When a judgment lacks the requisites, it is void.

12 R. C. L. 1196-7-8.

The contents of an information are provided for under favor of Sec. 2057 of the Statutes of Washington.

The ownership of the building must be alleged in the information, or it will be fatally defective.

9 Am. Jur. page 263.

Habeas corpus lies where a judgment or sentence is fatally defective on the face of the record, as where it lacks the requisite definiteness and certainty—

75 Utah 245; 76 A. L. R. 460.

The judgment of sentence is uncertain; it fixes a maximum term, but no minimum. Who fixes that? A judgment is a final determination under the statute—404 of the Statute of Washington.

WHEREFORE, petitioner most respectfully prays that a writ of certiorari issue herein, and to the Supreme Court

of the State of Washington directed, commanding that court to certify and send to this Court for its review and determination on a day certain therein named the full and complete transcript of the record and all proceedings in this cause, and that the judgment and decision of the Supreme Court of the State of Washington may be reversed, and that your petitioner may be discharged from custody, and for such other and further relief as may be proper.

NORMAN J. SANFORD,
Petitioner,
By HOWARD E. FOSTER,
Attorney for Petitioner.

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